BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matters of	)	
	)	
Local Number Portability Porting Interval and Validation Requirements	)	WC Dkt. No. 07-244
	)	
	)	CC Dkt. No. 95-116
Telephone Number Portability	)	
	)	

COMMENTS OF CBEYOND, INTEGRA AND ONE COMMUNICATIONS

Willkie Farr & Gallagher LLP
1875 K Street, N.W.
Washington, D.C. 20006
(202) 303-1000

ATTORNEYS FOR CBEYOND, INC., INTEGRA TELECOM, INC., AND ONE COMMUNICATIONS CORP.

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Cbeyond, Inc., Integra Telecom, Inc., and One Communications Corp. (collectively, "Joint Commenters"), by their attorneys, hereby file these comments in response to the Further Notice of Proposed Rulemaking in the above-referenced dockets.[1]

I. DISCUSSION

The FCC's review of its number portability rules should be informed by two basic principles. *First*, the FCC should limit the definition of "simple" ports to single number ports off of DS0 (i.e., POTS) lines that require only porting activity and that do not require either any coordination between carriers or any other work. If the definition of simple ports is expanded to include ports that involve activity other than single number ports off of POTS lines, several harmful consequences will likely follow. To begin with, expanding the definition of simple ports could well result in more porting errors, causing more customers to lose dial tone and/or access to 911 for days.

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[1] *Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability,* Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6084 (2009) ("*FNPRM*").

Expanding the definition to include ports that are currently considered "non-simple" would also further increase the burden on carriers, such as the Joint Commenters, that are already expending substantial time and resources to comply with the one-day simple port rule. This burden would likely become unsustainable if the definition of a simple port were expanded.

In addition, expanding the definition of simple ports would disrupt the efforts of the LNPA WG and NANC to implement the FCC's one day porting rules. Many CLECs and smaller incumbent LECs have been participating in this implementation process and consensus has been reached based on the *current* definition of a simple port. If that definition is expanded, the one day porting process will have to be substantially altered to take into account larger volumes of port requests. Even if the appropriate changes are made to account for the increased port volumes, many carriers might be unable to manage the increased burden and would therefore need to obtain waivers of the one-day rule. This outcome would undercut the very purpose of the one-day rule.

Second, the FCC should allow industry standards-setting groups to direct the development of technical requirements for the porting process wherever possible. Most importantly, industry standards-setting bodies have already made substantial progress in defining additional fields needed to accomplish a port. The FCC should allow that process to take its course. Once an industry standard for additional fields has been agreed upon, the FCC should codify the proposal as a legal requirement applicable to the entire industry.

Ports Involving UNEs. The original purpose of classifying ports that "involve an unbundled network element" as non-simple was to take into account the difficult

coordination required when control of a UNE loop is transferred between carriers as part of the porting process. That principle remains sound today.

Nearly all ports that involve a UNE loop involve substantial carrier coordination and therefore should continue to be treated as non-simple. For example, if a competitor wins a single number customer from an incumbent LEC and needs to reuse the DS0 UNE loop to serve the customer, the incumbent LEC must coordinate the transfer of the copper pair to the competitor as part of the porting process. The transfer of the UNE loop requires coordination between carriers and can often take much longer than the current one day porting period for simple ports. It is important that the transfer of the loop and the port of the number occur at the same time so that the port does not occur until the facilities transfer occurs. Otherwise, the customer could lose service during the period between when the port is executed and the facility is transferred. It follows that the one day port completion rule should not apply to ports involving the reuse of a UNE loop.

Some incumbent LECs have argued that, while a single number port from the incumbent LEC to a competitor provided over a DS0 UNE loop should be considered non-simple, a port involving the same customer back to the incumbent should be considered simple. There is no basis for such a distinction. *First*, given the substantial delay often associated with transferring control of a UNE loop from a competitor back to the incumbent, there is a considerable risk that the port would occur before or after the loop cutover, thereby causing the customer to lose service. *Second*, the incumbent LECs' proposal would place competitors at a substantial competitive disadvantage because ports to the incumbent would be processed more expeditiously than ports from the incumbent.

This would give customers the false impression that the incumbent's service is of a higher quality than the competitor's service.

Nevertheless, it is important to recognize that single number ports to or from a carrier using a DS0 UNE loop to serve a customer can be classified as simple if the port process involves solely the porting of a single number.[2] For example, a single number port from a competitor serving the customer via DS0 UNE loop to another competitor that will serve the customer via its own last-mile facilities should be considered simple. This is because, in this scenario, no facilities are transferred as part of the port, and therefore no coordination between carriers is required as part of the porting process. Similarly, if an incumbent LEC wins a customer from a competitor that relies on its own loop facilities, the port would not involve a reuse of a UNE loop and should again be considered simple.

In addition, only the involvement of a UNE *loop* increases the complexity of the porting process. If a carrier serves a customer via its own loop, the port of a single number by itself should be classified as a simple port, even if the carrier uses one or more non-loop UNEs (e.g., a standalone interoffice UNE transport facility) to serve the number to be ported. This is because the competitor need not transfer the non-loop UNE as part of the porting process. The non-loop UNE facility remains on the competitors' network so that it may continue to be used to serve multiple customers.

[2] For example, if, in order to complete the port, the porting-in carrier must transmit a "desired due time" to the porting-out carrier, such a port must be considered non-simple because implementing a desired due time involves coordination between carriers. In this example, "desired due time" is a request for the activity or port to take place at a certain designated time of day on the due date.

Interpretation of Single Line/Single Account Definition. The most reasonable interpretation of a "single line" in the FCC's current single line/single account simple port definition is that a "single line" means an single number. Therefore, any ports that involve more than a single number off of a single account or a port of a single number off of a line that carries multiple numbers should be considered non-simple.

The porting of even a single number off of or to a DS1 or DS3 loop (regardless of whether the customer is served via a UNE loop, special access or a carriers' own loop facilities) should always be considered non-simple. This is because a port of one or multiple numbers off of or to a DS1 or DS3 almost always involves "complex switch translations" such as hunt groups or involves the transfer of other services, such as internet access, on the facility. The work involved in establishing the preconditions for a smooth porting process in this environment cannot be accomplished reliably in a single day. For example, if one of the numbers ported is the lead number off of a hunt-group, substantial work and coordination must be undertaken to, among other things, ensure that a new lead number for the hunt group is designated and the appropriate databases are populated. As One Communications has explained, an error in porting a single number off of a DS1 or DS3 can result in the customer losing phone service over all of its numbers on the line, thereby causing harm to the customer's business and substantial risks to public safety.[3]

[3] *See* Opposition of One Communications *et al.*, WC Dkt. No. 95-116, at 4 (Feb. 8, 2007) ("The most serious consequences follow where the lead number in a business customer's DID range is incorrectly ported. If this were to occur, (1) all of the numbers associated with the DID range would be ported and an entire business might lose phone service; (2) ANI information including E-911 data associated with that main line would not be included on outbound calls, potentially causing 911 calls to route to the wrong PSAP with missing or incomplete location data; (3) all toll free numbers terminating to the main

Moreover, ports involving multiple numbers off of a single account should be considered non-simple in almost every case. The simple porting standard adopted by the FCC classified the porting of multiple lines (i.e., numbers) in a single account as non-simple because of the complexity and difficult coordination that is almost always involved in porting multiple numbers, even when all of the numbers are associated with a single account. Today, this continues to be the case with few, if any, exceptions.

First, there are almost always multiple services or "complex switch translations" associated with a loop facility that serves multiple numbers. The presence of such services and translations can add additional difficulties to the porting process and the mis-porting of a single number can result in significant harm to the end user.

Second, even in those few instances where the porting out carrier can determine that little or no coordination is necessary to ensure that multiple number ports on the same account can be accomplished without delay (such as ports of multiple numbers off of several POTS lines with no associated hunting or complex translations involved) the porting-out carrier cannot know that this is the case without examining the customer's account in depth. This vetting process makes it difficult for the porting-out carrier to comply with the single day simple porting rule.[4] At the same time, restricting the definition of a simple port to the porting of a single telephone number on a single account facilitates a prompt, straightforward determination with relatively little opportunity for

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line could also be routed improperly or rejected by the new carrier; and (4) after hours call forwarding to answering services would no longer function.").

[4] Indeed, to implement the FCC's latest order, the LNPA WG is proposing a four hour period between the time the porting-out carrier receives a port request and the time the porting-out carrier must (1) notify the porting-in carrier as to whether the port is simple or complex and (2) transmit the required information to effectuate the port.

error. Accordingly, ports of multiple numbers off of a single account must continue to be considered non-simple.

Changes to Information Fields Needed to Complete Ports. While the *FNPRM* seeks comment on the "information fields necessary for completing simple ports," the FCC is not well-suited to make this decision. Defining necessary information fields should be left to the standards setting organizations (i.e., ATIS/OBF, LPNA WG, NANC), which are deeply involved in this issue. Once the standard has been finalized by OBF and approved by NANC, the FCC should ratify the standard subject to notice and comment.

In its Petition for Declaratory Ruling and later filings in this proceeding, One Communications argued that the four fields mandated by the FCC are insufficient to actually "accomplish" the port.[5] There is now wide industry agreement that additional "accomplishment" fields must be exchanged between carriers to ensure that the porting process runs smoothly and without errors.[6] Indeed, carriers must often resubmit porting

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[5] *See One Communications Petition For Clarification And Limited Waiver For Extension Of Time*, WC Dkt. Nos. 07-243 *et al.*, CC Dkt. Nos. 95-116 & 99-200, at 3-5 (filed Feb 8, 2008); One Communications Comments, WC Dkt. Nos. 07-243 & 07-244, at 5 (Mar. 24, 2008) ("One Communications Comments") ("Validation is but one part of the porting process -- as the Commission is well aware, following validation, a carrier must then, of course accomplish the port.").

[6] *See, e.g.*, *Ex Parte* Letter from Ann Berkowitz, Director, Federal Regulatory Advocacy, Verizon, to Marlene H. Dortch, Secretary, FCC, WC Dkt No. 07-244, at 2 (filed May 6, 2009) ("*Verizon May 6 Letter*") ("The four *validation* fields are insufficient to allow the old provider to accomplish its porting obligations….In fact, the service providers that participate in NANC's Local Number Portability Administration Working Group…have already unanimously agreed that the identity of the new service provider and the desired due date are necessary data fields for the porting process to work….In addition, other fields that the OBF is likely to conclude should be included are order number, contact information for the representative making the request, and directory listing information.") (emphasis in original).

orders multiple times, even following validation, because insufficient information is currently being transmitted under the four field validation standard to accomplish the port.[7]

Since the FCC adopted that standard, One Communications has experienced a significant increase (estimated at between five and 10 percent) in port-in and port-out errors. As a result, more numbers are mis-ported or not ported at all, and more end users are losing their service as a result of the porting process.

Fortunately, the ATIS OBF is making substantial progress in achieving industry consensus on the fields necessary to effectuate wireline to wireline and intermodal simple and non-simple ports.[8] Separate standards for simple and non-simple ports are necessary because non-simple ports require the exchange of more data than a simple port. Once the standards are agreed upon by OBF members, the OBF will provide its recommended standard to the LNPA WG for inclusion in its recommendation to the NANC for additional input, changes and suggestions. The high level of industry cooperation in this process is underlined by the fact that LNPA WG has been following and providing input into the OBF process through a designated liaison to OBF, increasing the likelihood that the final standard will win consensus or near consensus support from the industry. Given the substantial progress made by OBF and given its technical expertise, the FCC need not

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[7] *See* One Communications Comments at 6 ("[A] submitting carrier might now pass through the simplified four-field validation process without issue, only to face the prospect of multiple rejections *after validation* for errors detected during the accomplishment phase.") (emphasis in original).

[8] *See Verizon May 6 Letter* at 3 (noting that OBF is likely to reach consensus "as to which particular fields to include on the standard form").

provide additional guidance to OBF regarding what execution fields must be standardized.[9]

Nevertheless, as other carriers argue, it is crucial for the FCC codify the OBF standard as a legal requirement once it has been finalized.[10] Carriers will be able to reduce costs and porting error rates only if the FCC ensures that all carriers are required to operate from the same playbook. Past experience shows that porting standards not backed by a government mandate will not be implemented on a wide scale. Indeed, while ATIS (OBF's parent organization) has previously recommended changes to porting fields,[11] those recommendations have not been widely adopted because ATIS lacks the authority to enforce implementation of and compliance with its own standards. Several carriers involved in the ATIS standard setting process decided to largely ignore the standard once it was adopted by ATIS. Thus, carriers continue to decide on their own what fields they believe are necessary to transmit during the porting process.

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[9] The FCC has recognized that highly technical issues related to number portability should be left to the expertise of standards setting organizations. *See, e.g., Telephone Number Portability et al.*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, ¶ 12 (2003) (relying on the fact that "[t]he NANC submitted a second report on the integration of wireless and wireline number portability to the Commission in 1999, and a third report in 2000, both focusing on porting interval issues."); *see also* AT&T Comments, WC Dkt. No. 07-244, at 4-5 (filed Mar. 24, 2008) (noting that highly technical issues are better settled by NANC, and "where the Commission has deviated from that course by prescribing specific LNP requirements without adequate prior consultation with NANC and affected industry segments…it has inadvertently introduced substantial confusion and necessary costs into the LNP implementation process.").

[10] *See Verizon May 6 Letter* at 1 ("Because industry consensus should be reached to identify those particular fields, the Commission should consult with ATIS's Ordering and Billing Forum ('OBF'), since the OBF is developing a standard set of required data fields for simple and complex ports.").

[11] *See* Letter from Thomas Goode, ATIS General Counsel, to Dana Shaffer, Chief, Wireline Competition Bureau, FCC, WC Dkt. No. 07-244 (filed Jan. 16, 2008).

Accordingly, Joint Commenters urge the FCC to put out for comment and adopt the ATIS proposal once it has been vetted by the LNPA WG and NANC.[12] Finally, to reduce confusion and minimize unnecessary carrier expenditures, the FCC should ratify the OBF standard well before the one day porting interval goes into effect.

II. CONCLUSION

The Commission should adopt number portability rules consistent with the discussion herein.

Respectfully submitted,

/s/

Thomas Jones
Jonathan Lechter
Willkie Farr & Gallagher LLP
1875 K Street, N.W.
Washington, D.C. 20006
(202) 303-1000

Attorneys for Cbeyond, Inc., Integra Telecom, Inc., and One Communications Corp.

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[12] T-Mobile proposed as similar plan when it seemed less likely that the OBF could reach consensus. *See* T-Mobile Reply Comments, WC Dkt. No 07-244 & CC Dkt. No. 95-116 at 10-11 (filed Apr. 21, 2008) ("Accordingly, ATIS's efforts should be subject to review and approval of the [LNPAWG]. This group, unlike ATIS, is open to all industry participants and is the Commission's designated oversight committee for LNP issues. If the ATIS-led process does not appear to be headed towards consensus in the near future, the Commission should direct the LNPAWG to develop the form and submit it to the Commission....").